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Federal Communications Commission  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Implementation of the )  
Pay Telephone Reclassification )  
and Compensation Provisions of the )  
Telecommunications Act of 1996 )

CC Docket No. 96-128

AT&T COMMENTS

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## SUMMARY

The purpose of this rulemaking is to ensure effective competition in the provision of payphone services in accordance with Section 276 of the Telecommunications Act of 1996. The Commission's payphone rules are an integral part of the overall statutory objective to achieve a new competitive model for the interstate, intrastate and local telecommunications marketplace. Thus, in approaching the wide variety of issues presented in this proceeding, the Commission's analysis should be guided by several fundamental principles grounded in the Act's language and legislative history.

First, in light of the paramount statutory objective to achieve a viable competitive telecommunications marketplace, the Commission must carefully evaluate the extent to which all incumbent local exchange carriers ("ILECs") should be permitted to negotiate with location providers (who currently exercise decisionmaking power over payphones on their premises) regarding selection of an interLATA carrier and, if the ILECs are allowed to do so, establish effective rules to govern those dealings. Granting the Bell Operating Companies ("BOCs") such authority within their own services areas before they have fully satisfied their local entry obligations under Section 271 would clearly be premature and unwarranted, because it would effectively permit them to enter the long distance market by acquiring, through commission payments, a financial interest in favoring the carrier they designate to serve those payphones. Moreover, even after a BOC has satisfied the Section 271 entry criteria, the Commission should not permit it to negotiate with payphone owners within its own

region until the Commission has evaluated how the BOC's control of local exchange facilities and extensive payphone penetration affects its ability and incentives to behave anticompetitively. If, after such analysis, the Commission finds that the granting of authority to negotiate is in the public interest, it must establish rules to protect payphone owners from coercion and competing interexchange carriers ("IXCs") from discrimination. Because the ILECs possess control in their serving territories which is comparable to the BOCs', the Commission can then apply these rules to all ILECs.

Additionally, the Commission must assure that the reclassification of ILEC payphones as customers premises equipment ("CPE"), and the resultant detariffing of that equipment, is accompanied by the complete elimination from those carriers' access charges of the subsidies for that equipment that currently pervade their inter- and intrastate tariffs. Meaningful competition for payphone services cannot be expected to develop when the principal competitors continue to receive revenue streams that are unavailable to (and oftentimes paid by) other competitors in the same market. It would be especially inappropriate for BOCs to have the right to negotiate for the selection of the presubscribed interLATA carrier from payphones (whether within or outside their region) while they continue to receive payphone subsidies from IXCs through payments under the BOCs' access tariffs.

Finally, consistent with the Telecommunications Act's objective of achieving cost-based rates, the Commission should mandate a compensation plan for "dial-around" traffic that is firmly grounded in the payphone providers' economic costs. Instead of the various surrogates it has heretofore relied on (none of which are

related to payphone owners' costs), the Commission should prescribe a compensation mechanism that applies Total Service Long Run Incremental Cost ("TSLRIC") principles to the applicable costs of an efficient payphone provider -- i.e., the payphone instrument, maintenance expenses, the Subscriber Line Charge ("SLC") and tariffed LEC charges for screening and other fraud protection services. These eligible costs, when allocated across the total number of calls carried by payphones (including local, intraLATA, and interLATA traffic), will produce a reasonable compensation rate that creates proper economic incentives for both payphone owners and carriers.

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### AT&T COMMENTS

**Pursuant to the Commission's Notice of Proposed Rulemaking**

## INTRODUCTION

**New Section 276 of the Communications Act requires the Commission**

- (i) establishing a per-call system that ensures payphone service providers (“PSPs”) are fairly compensated for all completed calls made from their

1 As defined in Section 276(d), “payphone service” means the provision of public or semi-public telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services.

payphones,<sup>2</sup> except for telecommunications relay service ("TRS") and emergency calls (Section 276(b)(1)(A));

(ii) eliminating the access charge and other subsidies from basic exchange and exchange access services that incumbent local exchange carriers have used to support their provision of payphones (Section 276(b)(1)(B));

(iii) establishing safeguards for Bell Operating Companies to implement the requirements of Section 276(a) that BOC exchange and exchange access operations neither subsidize nor discriminate in favor of BOC payphone operations (Section 276(b)(1)(C));

(iv) establishing rules governing the PSPs' right, if in the public interest, to negotiate with location providers to select the presubscribed carrier ("PIC") for interLATA and intraLATA calls from payphones (Sections 276(b)(1)(D)&(E)).

In addition, consistent with the basic intent of the 1996 Act, the Commission's payphone rules must not adversely affect competition in the provision of the telecommunications services that are offered through the use of payphones.

AT&T supports most of the Commission's tentative conclusions in the Notice, particularly the Commission's conclusion that fair compensation for PSPs should be based on their costs. AT&T also supports the Commission's proposals to classify ILEC payphones as CPE and to establish a "carrier pays" system for compensating PSPs. AT&T offers comments on the ability of IXC's to track calls and recommends the use of a surrogate to measure subscriber 800 calls originating from

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<sup>2</sup> The Commission refers to all payphone service providers, both competitive providers and incumbent providers, as PSPs. "Completed" calls in this context refers to calls that have been answered at the receiving end of the call, as dialed or directed by the caller

payphones because of the potential for fraud which exists for this type of traffic.

AT&T also believes that the public interest would not be served if the Commission permitted a BOC to negotiate with location owners regarding the selection of an interLATA carrier for the BOC's payphones before the BOC is permitted to enter the in-region interLATA market pursuant to Section 271 and 272, and that such a right of negotiation could give rise to concerns about coercion and discrimination under any circumstances for ILECs in general. Finally, AT&T supports the Commission's identification of certain state limitations which restrict competition for intraLATA traffic from payphones and urges that the Commission preempt any rules which are inconsistent with the pro-competitive intent of the Act.<sup>3</sup>

**I. ESTABLISHMENT OF A PER-CALL PSP COMPENSATION PROCESS.**

**A. The PSP Compensation System Should Be Based Upon TSLRIC.**

Section 276(b)(1)(A) requires the Commission to adopt rules to:

“establish a per call compensation plan to ensure that all payphone providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing

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<sup>3</sup> AT&T supports the Commission's tentative conclusion that consolidating all but one related proceeding within this rulemaking is in the public interest (§ 88). Oncor's Petition in DA 95-1921 seeks compensation for presubscribed operator service providers ("OSPs") to offset their claimed "loss of revenue" when callers choose to dial around a payphone's presubscribed OSP. Because Section 276 addresses fair compensation for payphone service providers, not presubscribed OSPs, the Commission should consider DA 95-1921 separately from this rulemaking.



disabled individuals shall not be subject to such compensation."

As a threshold matter, the Notice (§ 16) correctly concludes that the Commission is charged with ensuring that PSPs are "fairly compensated" for all types of calls (except for emergency and TRS calls), regardless of whether a PSP currently receives compensation for particular calls. However, the Commission (*id.*) also correctly acknowledges that it need not prescribe additional compensation in cases where a PSP is already receiving compensation under a contract, *e.g.*, commission contracts for 0+ calls. In such cases, the fairness of the compensation can be presumed from the existence of the consensual arrangement between the carrier and the payphone provider.<sup>4</sup>

The Notice (§ 17) also correctly concludes that the Commission should prescribe standards for determining fair compensation for all other types of interstate and intrastate calls from payphones, including access code calls (if they are not

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<sup>4</sup> See Notice, n.54 (pursuant to commission contracts between competitive payphone providers and IXC's "the payphone provider likely recovers the marginal cost of the 0+ calls from the payphone"). In this context, however, the compensation paid and received is not based upon either party's costs. The competitive payphone provider attempts to extract the market value of its right to select the PIC for 0+ calls from its phones, not merely its marginal costs. In contrast, the IXC pays commissions as a marketing expense in order to receive the primary (0+) access position for calls from those phones. Thus, although the Commission correctly presumes that neither party would enter into such an arrangement if it would create an economic loss, neither party's assessment is directly cost-based.

compensated pursuant to an agreement between a carrier and a payphone provider)<sup>5</sup> and subscriber 800 and other toll-free calls ("subscriber 800 calls").<sup>6</sup> AT&T further agrees with the Commission's tentative conclusion (§ 18) that compensation should apply to international calls placed from payphones. To the extent these calls may not already be included in the definition of "interstate" under Section 276, there is no reasonable basis to exclude such calls from the Commission's compensation rules.<sup>7</sup> The net result would be one form of compensation for all calls.

The most critical issue in establishing a per-call compensation system is determining the amount of the compensation PSPs should receive. The Notice (§ 38) properly proposes that PSPs "should be compensated for their costs" in originating calls at their payphones.<sup>8</sup> The Notice (*id.*) recognizes, however, that the Commission

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<sup>5</sup> Some IXC commission agreements include compensation for access code calls made to its network from contracted phones, as well as 0+ calls. Thus, the Commission's per-call compensation rules should exclude all calls, including access code calls, that are covered by a compensation agreement between a carrier and a payphone provider.

<sup>6</sup> Although the Notice (*id.*) references "debit card" calls as a separate category, virtually all such calls are handled by calls to 800 numbers. Thus, there is no need to create a separate mechanism to deal with such calls.

<sup>7</sup> As discussed below, all calls originated at payphones should be treated the same for purposes of PSP compensation, because payphones perform identical functions for all types of calls.

<sup>8</sup> The Notice (§ 36) acknowledges that the Commission has historically -- and correctly -- rejected arguments that compensation should be based on "opportunity costs."

lacks reliable PSP cost data. Thus, it seeks comments on the type of information that could be used to develop appropriate per-call compensation for all PSPs.

In the past, the Commission has relied upon "cost-based surrogates" to establish the compensation for dial-around calls from PSP payphones.<sup>9</sup> Those surrogates, however, were developed as a compromise among competing interests, without review of the actual costs of providing payphones. Accordingly, none of the earlier surrogates is an appropriate basis for determining a cost-based compensation rate for virtually all calls from the approximately 2.1 million payphones in service throughout the country.<sup>10</sup>

The most economically rational approach for calculating PSPs' per-call compensation is the TSLRIC-based method recommended by the Department of Justice, AT&T and many other commenters in the Commission's companion Local Competition Proceeding.<sup>11</sup> Under this approach, PSPs would recover all of the

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<sup>9</sup> Id.

<sup>10</sup> Those surrogates included: LEC access charge compensation related to payphones, LEC 0- transfer service charges and AT&T commission payments. There is general consensus that access charges are significantly above cost (see, e.g., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, released April 19, 1996 ("Local Competition Proceeding"), NPRM, ¶ 3), and LEC 0- transfer services and commission payments received by competitive payphone providers have no direct -- or even indirect -- relationship to the costs of providing payphones.

<sup>11</sup> For a fuller description of TSLRIC in the Local Competition Proceeding, see AT&T Comments, May 16, 1996 at 46-60 and Department of Justice Comments, May 16, 1996, at 8-32.

economic costs an efficient payphone provider would incur in making payphones available to telecommunications carriers and their customers. As applied to payphones, TSLRIC would require a determination of the forward-looking efficient costs of providing payphone service. This would include the efficient costs of providing and maintaining the payphone instrument,<sup>12</sup> exclusive of coin collection functions.<sup>13</sup> Recoverable costs should also include the monthly SLC, which the Commission (§ 53) proposes to apply to all payphones (including payphones of LEC affiliates) and other tariffed LEC services, such as screening and other fraud protection services, that are used specifically to provide payphone services. These costs specifically support the provision of all services from payphones, and it would be reasonable to make IXC's responsible for an appropriate portion of those costs through the compensation mechanism.

TSLRIC for payphones does not, however, include the costs of the basic payphone line itself, because that line will continue to be provided by the regulated LEC entity,<sup>14</sup> and IXC's will continue to pay the LEC directly for their use of such lines

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<sup>12</sup> On a forward looking basis, all PSPs may be able to purchase less expensive or "dumb" payphone equipment to the extent that the LECs are required to make available central office-provided functionality on an unbundled basis.

<sup>13</sup> Carriers that provide coin calls from a payphone should separately reimburse payphone operators, based on a division of the efficient costs of collecting and remitting the deposited coins.

<sup>14</sup> See Notice, § 51, which correctly proposes to remove from LEC rate structures "the costs of payphone sets, not including the costs of the payphone lines connecting those sets to the public switched network, which, like the lines

(footnote continued on following page)

through access charges. Accordingly, LEC charges to PSPs for such lines should be priced to reflect this source of revenues.<sup>15</sup> If, on the other hand, the Commission were to include the monthly basic line charge in the PSP compensation process, it must disallow the assessment of any access charges on IXC's for use of payphone lines, because failure to do so would impose a double payment obligation on IXC's.<sup>16</sup>

PSP commission costs paid to location owners should also be excluded from the TSLRIC analysis. Payphone providers are able to use the placement of their phones to generate above-cost compensation for their selection of a PIC from their phones. Equally important, the 1996 Act provides that location owners are the parties that have the right to select a presubscribed carrier for the interLATA and intraLATA toll calls from payphones on their premises,<sup>17</sup> and location owners can contract directly with IXC's to receive commissions for calls placed over the preselected carrier's network. Indeed, the Notice (¶ 16) acknowledges that this is the practice for the large

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(footnote continued from previous page)

connecting competitive payphones to the network, will continue to be treated as regulated."

<sup>15</sup> Under this view, a PSP's purchase of the basic access line includes only its ability to complete local calls, and this cost should be incorporated in full in the state commissions' review of the local service coin charge.

<sup>16</sup> If the Commission decides to eliminate access charges on payphone lines, it must also assure that LECs do not recover such amounts through other access charges.

<sup>17</sup> See Notice, ¶ 68 (citing legislative history) and Section 276(b)(1)(D)&(E) and Part IV below.

majority of commissionable payphone calls today, i.e., interLATA calls from ILEC payphones. Thus, there is no basis to include such costs in the TSLRIC analysis.<sup>18</sup>

This is not only the right result from an economic perspective, it also serves the public interest. First, it eliminates the need for regulators to make decisions on what is a "reasonable" (and thus recoverable) commission rate. Second, it reduces upward pressure on payphone commissions that would result from a guaranteed recovery of commissions paid to location owners. If PSPs were guaranteed recovery of their commission costs through the statutory compensation mechanism, there would be inevitable pressure over time to include higher and higher commissions within the compensation system, which in turn would cause higher prices for consumers. Excluding commissions from the TSLRIC analysis will remove such incentives.

The current lack of reliable PSP cost data need not hinder the Commission's determination of PSP compensation. ILECs should have reasonably reliable data on the costs of operating their central-office controlled payphones. In addition, many ILECs have begun to implement "smart" payphones, and they should also have appropriate current data that could be reviewed and applied on an industry-

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<sup>18</sup> A similar result could be obtained by barring all PSPs from making any commission or similar payments to location owners for interexchange calls and require that such payments, if any, be obtained through direct agreements with carriers. If those arrangements were required to be established directly between location owners and carriers, the latter (unlike PSPs) have strong incentives to keep commission costs low and reflective of the actual benefits the carrier receives by being the PIC for the phone.

wide basis. Most fundamentally, however, the application of TSLRIC principles makes the review of any specific PSP's historical (or embedded) costs irrelevant. The pertinent costs under TSLRIC are the forward-looking costs that an efficient PSP would incur.<sup>19</sup> Such costs could be reviewed by looking at the efficient current costs of owning and maintaining payphone equipment used solely for the purpose of completing calls,<sup>20</sup> together with the standard SLC charge and the tariffed rates for the LEC screening and other specific services necessary to support payphone service from such phones.

In setting the compensation rate, the Commission should apply the appropriate TSLRIC costs across the total number of calls carried by payphones. A payphone performs identical services in connection with every call, regardless of the type of call or where it terminates. The phone receives and processes the digits dialed by the caller, so that a call may enter the public switched network and be completed. Except for the number of digits dialed by the caller, the payphone and associated access line perform identical functions, regardless of whether the called party is across the street, the LATA, the country or the world. Thus, there is no reason why PSP compensation should vary based on the type of call.

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<sup>19</sup> PSP compensation should not foster inefficiencies by rewarding inefficient providers with higher compensation that is based on their inefficiency.

<sup>20</sup> If a payphone instrument permits customers to obtain other services that are available only from the PSP or its presubscribed carrier, such costs should be excluded.

The Notice (§ 39) also seeks comment on whether the Commission should devise “some measure of interim compensation” for competitive payphone providers. AT&T would support a requirement that all carriers pay interim per-call dial-around compensation on the same basis as AT&T and Sprint do under their existing waivers.<sup>21</sup> Such a requirement is clear and unambiguous and would place all IXC’s on a par until the Commission issues final rules in this proceeding.<sup>22</sup> There is no basis in the record, however, to require interim compensation for other types of calls, especially 800 subscriber calls, including debit card calls. There is no known reliable tracking mechanism for such calls (see Part C below), and there is no basis to establish a compensation amount until the Commission’s TSLRIC analyses are completed. Thus, there is no record upon which the Commission could order interim compensation for such calls. Moreover, the practical difficulties of establishing an interim system -- which would only operate for a short time -- make establishment of such a system infeasible.

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<sup>21</sup> Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Memorandum Opinion and Order, 10 FCC Rcd 1590 (1994); id., Memorandum Opinion and Order, 10 FCC Rcd 5490 (1995).

<sup>22</sup> At a minimum, the Commission should require at least MCI and LDDS/Worldcom to move to per-call compensation immediately on the same terms as AT&T and Sprint. A request for such relief has long been pending in the Petition of the American Public Communications Council in Docket No. 91-35 and an order requiring parity among the largest carriers would be appropriate while the Commission determines its final rules here.



**B. PSP Compensation Should Be Established On A "Carrier Pays" Basis.**

AT&T supports the Commission's conclusion (§§ 27-28) that the least burdensome and most cost efficient compensation mechanism is a "carrier pays" system for all types of payphone calls. A "set use" payphone fee charged directly to end users through a coin-deposit approach would inconvenience callers and discourage payphone use, or even prevent such use altogether. Consumers have become accustomed to the ability to make cash-free calls from payphones through the use of calling cards, credit cards, debit cards, collect calls and billed to third number calls. Consumers have also become accustomed to making toll free 800 and 888 calls from payphones. A coin deposit-based "set use" fee would seriously undermine the value and perception of these calls as "toll free."

A coin-deposit system would make payphone calling more confusing and difficult, especially for coin service callers who would have to deposit coins for multiple purposes. Moreover, a coin deposit requirement would completely preclude calls by persons who do not have the necessary change available. Thus, such a requirement would be a major step backward in making telephone services accessible to the transient public, and it would be inconsistent with the purpose of Section 1 of the Communications Act "to make available to all people in the United States a rapid [and] efficient . . . communications service."

Similarly, the Notice (§ 28) correctly concludes that a “set use” fee compensation system that did not require customer coin deposits would be more expensive and cumbersome to implement than a “carrier pays” compensation system.<sup>23</sup> A “set use” fee system, which would impose payphone use charges directly on end users, could create significant customer confusion if it were billed separately from a carrier’s charges for a call. Moreover, such a system would introduce additional costs necessary to enable carriers to bill and collect such fees on behalf of PSPs. Under a “carrier pays” system, however, the transaction costs and the number of involved parties is reduced and would impose fewer overall costs on consumers.<sup>24</sup>

C. Tracking Of Payphone Calls.

The Notice (§ 30) tentatively concludes that tracking mechanisms and surrogates exist, or could be created, to support the complete per-call compensation plan mandated by Section 276(b)(1)(A), and it seeks comment on what tracking options are currently, or may soon be, available. AT&T itself is able to quantify, for compensation purposes, all “dial-around” calls from payphones that are made by

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<sup>23</sup> A “set use” fee system would also be more administratively burdensome (see Notice, § 33).

<sup>24</sup> For example, the California “set use” fee mechanisms properly allow carriers to withhold a portion of the amounts billed to reflect their costs for billing, collecting and administering the fee on behalf of the LEC payphone operators. Many of these costs would be avoided for both carriers and consumers under a direct “carrier pays” system.

customers who use an access code,<sup>25</sup> regardless of whether the call is interLATA or intraLATA, as long as the originating phone is not located in an area in which AT&T cannot retrieve the ANI.<sup>26</sup> AT&T cannot, however, individually track 800 subscriber traffic (including debit card calls)<sup>27</sup> to individual payphones. The inability to track such calls arises from the fact that, unlike most calls, billing for toll-free calls is based upon the ANI of the terminating telephone, not the originating phone. Because of this fact, AT&T's systems are not designed to maintain files of the ANIs of originating telephones that are necessary to compute per-call compensation for PSPs.<sup>28</sup> Moreover,

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<sup>25</sup> Because the LECs typically strip off (and do not deliver) the 10XXX access code to IXC's, AT&T cannot directly identify whether a call has been dialed using 0+ or 10XXX access. However, AT&T can segregate these two types of calls for compensation purposes by identifying whether the originating payphone receives commissions for 0+ calls. All calls received from non-contracted payphones for which AT&T receives ANI are presumed to be "dial-around" calls and receive dial-around compensation. In contrast, calls placed using a specific AT&T 800 access code (e.g., 1-800-CALL-ATT) are routed to a separate platform which specifically identifies such calls as access code calls.

<sup>26</sup> AT&T receives ANI on all but about 2% of the payphones for which it currently pays dial-around compensation. In order to calculate compensation from phones where AT&T does not receive ANI, the Commission can establish a surrogate based upon studies made from a representative sample of phones from which ANI is sent and received.

<sup>27</sup> AT&T's total debit card traffic is de minimis, representing a tiny fraction of its total revenues, only a portion of which is originated at payphones.

<sup>28</sup> After substantial effort and expense, AT&T created a "work-around" system to enable it to pay compensation for intrastate 800 subscriber calls in Illinois, but that system is unable to accommodate more data than it presently handles.

AT&T estimates that it would take over a year to develop and implement a system to track AT&T toll-free calls from payphones.

Further, the Commission (§ 23) properly recognizes that there are significant fraud issues that are unique to the tracking of 800 subscriber calls.<sup>29</sup> As the largest provider of toll-free services, AT&T is particularly concerned with the potential abuses from this type of fraud. Any per-call compensation mechanism that specifically measures subscriber 800 traffic from particular phones could allow for significant "cheating" before fraud could be detected -- if it is detected at all.<sup>30</sup> Accordingly, AT&T recommends that PSP compensation for such calls should be based upon studies made from a representative weighted sample of central-office-implemented payphones, from which autodialer fraud is less likely. Another important benefit of this methodology is that it will also relieve carriers from the considerable expense of specifically tracking 800 subscriber calls from individual phones. Using such a sampling methodology, LECs would track the number of dial-around and 800

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<sup>29</sup> Policies and Rules Concerning Operator Services Access and Pay Telephone Compensation, Report and Order, 6 FCC Rcd 4736, 4746 (1991) (noting that payphone operators could attach autodialers to their phones and have such autodialers place toll-free calls, in order to increase the amount of compensation they would receive).

<sup>30</sup> Just two fraudulent subscriber 800 calls per week from a single "smart" payphone, a seemingly trivial amount, would generate over 100 fraudulent requests for compensation each year. Carriers' exposure is magnified by the presence of about 500,000 smart payphones, a number which is constantly rising as ILECs increase their use of such instruments.

subscriber calls made from the sampled phones. These data could then be used to create a factor that would serve as a surrogate for the number of 800 subscriber calls for which compensation is due. For example, if the sampled payphones generated 200,000 dial-around calls and 100,000 calls to 800 subscriber numbers during the study period, the 800 subscriber factor would be 0.50. Thus, carriers could add a 50% increment to the compensation for dial-around calls to cover the subscriber 800 traffic. As with the current dial-around compensation mechanisms, LECs could be required to update their studies periodically, to assure that the factor remains appropriate.

D. Administration Of Per-Call Compensation.

The Commission (§ 33) tentatively concludes that direct billing arrangements among carriers and PSPs should be maintained, with the addition of requiring IXC's and intraLATA carriers to send PSPs a statement that includes the number of toll-free and access code calls the carrier has received from each PSP payphone. Assuming that appropriate tracking methodologies are in place (either permanent or interim), AT&T supports this conclusion.<sup>31</sup> AT&T also supports the Commission's tentative conclusion (*id.*) that the details of billing arrangements should be left to the parties, so that carriers could choose, among other things, to use clearinghouse arrangements to support their payments to PSPs.

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<sup>31</sup> If surrogate methods are used to determine the number of a specific type of call from a payphone (e.g., 800 subscriber calls), the carrier's statement would show the method for calculating the payments for such calls.

The Commission (§ 34) also correctly concludes that ANI should be the basis for tracking calls. However, the obligation to provide ANI and verification data<sup>32</sup> should be on the LEC that provides the payphone line, not the intraLATA carrier. It is the LEC as the line provider, not the intraLATA carrier, which records and maintains the status of each ANI. The LEC should be required to provide the list of payphone ANIs to IXC's within 30 days of the close of the compensation period. The LECs should also be required to provide verification of disputed ANIs on request, in a timely fashion, i.e., within 30 days from the date of the request for verification, in order to support consistent response timeframes from all LECs.

AT&T concurs in most of the administrative rules the Commission proposes for handling disputes regarding the right to receive compensation. In particular, AT&T agrees that carriers should be permitted to refuse claims for compensation that are made more than one year after the end of the applicable tracking period. Given the considerable cost of maintaining and processing the data involved, a one year limitations period is a reasonable cut-off for new claims.

AT&T does not support, however, any guidelines that require IXC's to accept all claims made on an ANI unless the IXC is given notice by the LEC that the phone has been disconnected (§ 34). On the contrary, AT&T believes that it is imperative that the LECs provide "positive" confirmation, including ANI billing name

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<sup>32</sup> Verification data includes the billing name and address of the payphone provider in addition to the ANI.

and address, for every compensation period in order to minimize inaccurate claims or erroneous compensation payments. This "affirmative" method of LECs verifying ANIs will ensure that payments are issued to the proper payphone owner.

**II. ALL ILEC PAYPHONES SHOULD BE CLASSIFIED AS CPE, AND ILECS SHOULD BE REQUIRED TO OFFER PAYPHONE-RELATED SERVICES ON A NONDISCRIMINATORY BASIS TO ALL PSPS.**

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AT&T concurs with the Commission's tentative conclusion (§ 42) that all ILEC payphones should be treated as unregulated, detariffed CPE.<sup>33</sup> It is also in the public interest, however, to apply certain minimal requirements to payphones. These requirements, which the Commission already identified as a registration statement for interment implemented and central office implemented payphones (§ 47) and a prohibition against any PSP installing letterless keypads (§ 87), should not undermine the general trend toward greater deregulation of payphones.<sup>34</sup>

Reclassifying the payphones as CPE will facilitate implementation of the Commission's statutory duty to eliminate the current payphone subsidies derived from basic exchange and exchange access services.<sup>35</sup> AT&T also agrees with the

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<sup>33</sup> Although the competitiveness of both the CPE and interexchange markets assure that there can be no effective cross-subsidies between them, AT&T also concurs that its payphones should be reclassified as CPE with no regulatory restrictions relating to its use of such phones. (See Notice, § 56).

<sup>34</sup> It is also appropriate to establish the demarcation point for reclassified ILEC payphones as the same point ILECs use today for competitive providers' payphones.

<sup>35</sup> Section 276(b)(1)(B).

Commission's conclusion (*id.*) that ILECs should be required to offer PSPs, on a nondiscriminatory basis, all functions used in their delivery of payphone services. This is necessary to implement the specific nondiscrimination requirements for BOCs under Section 276(a), and it is also consistent with all LECs' general nondiscrimination obligations under Section 202.

In particular, AT&T agrees that ILECs should be required to unbundle and make available central office coin and coin transmission services to PSPs under tariff.<sup>36</sup> The fact that some ILECs have already begun to make these services available under tariff<sup>37</sup> attests to the feasibility of such a requirement.<sup>38</sup> Access to the same technologies as those used by the ILECs for their own payphones will allow competitive payphone providers to offer service using two types of payphones -- those which function through the use of central office-based systems as well as stand alone

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<sup>36</sup> See Notice, ¶ 43. In particular, the ILECs should provide access to all central office intelligence required to perform answer supervision, collect refund, far end disconnect, call blocking and screening options, access to the same monitoring and diagnostic routines on the line as the ILEC, 911 service, and any other services required to achieve parity between the payphones of ILECs and competitive payphone providers. Moreover, ILECs must offer public access line service for resale at rates that reflect the economic cost of providing the service. See Local Competition Proceeding, AT&T Comments, May 16, 1996, at 77 n.113.

<sup>37</sup> Notice, ¶ 43. Competitive local exchange carriers ("CLECs"), however, should not be obliged to make such services available unless they offer payphone services themselves.

<sup>38</sup> AT&T is not aware of any technical or other reasons why the availability of such services would create the potential for network unreliability or harm. In all events, the burden of demonstrating such harm should fall on the ILEC.



instrument-implemented phones. By facilitating this equipment option and permitting competitive payphone providers to use payphones which are technically and economically equivalent to those used by the ILEC, the Commission will narrow the cost advantages the incumbents have by their ability to choose the type of equipment they wish to use (§ 43-45). This will, in turn, promote the widespread deployment of competitive payphone services in accordance with Section 276(b)(1) of the Act.

Access to the ILECs' coin and coin transmission services will do nothing to promote payphone services competition, however, if these functions are excessively priced. Therefore, it is important that the ILECs' rates for these services reflect their costs. AT&T explained in the Local Competition Proceeding that the ILECs must provide access to unbundled network elements at TSLRIC-based prices. This will provide an opportunity for the ILEC to recover all of the additional costs of providing the functions, including a reasonable profit measured by the costs of attracting capital and common costs.<sup>39</sup> This pricing scheme is consistent with the requirement in Section 252(d)(1)(A) of the Act that just and reasonable rates for unbundled elements must be cost-based.

### III. SAFEGUARDS FOR BOC PROVISION OF PAYPHONE SERVICE (§§ 57-66).

AT&T supports the Commission's tentative conclusion (§ 58) that all Computer III nonstructural safeguards must be applied to the BOCs' provision of

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<sup>39</sup> AT&T Comments, May 16, 1996, at 49.